



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Professional and Occupational Regulation
Virginia Administrative Code (VAC) citation	18 VAC 120-30-10 et seq.
Regulation title	Regulations Governing Polygraph Examiners
Action title	Amending Regulations
Document preparation date	November 3, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The intent of this regulatory action is to review and, where necessary, amend current regulations to reflect statutory changes, industry changes (especially those that involve technological advances in equipment and training), and changes suggested by licensees and members of the public during the Department's normal course of operations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§ 54.1-1802 requires that the Director of the Department of Professional and Occupational Regulation "promulgate regulations that are not inconsistent with the laws of Virginia necessary to carry out the provisions of [Chapter 18 of Title 54.1 of the Code of Virginia] and Chapter 1 (§ 54.1-100 et seq.)."

18 VAC 120-30-30 provides the authority for the Director of the Department of Professional and Occupational Regulation to appoint an advisory board to advise the Department on any matters relating to the practice or licensure of polygraph examiners.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The Department plans to review all the regulations, especially the provisions of Part V (Standards of Practice and Conduct), to ensure continuing compliance with federal regulations and procedures that may have been implemented by the introduction of computer-based polygraph devices. The Department will review all provisions of the regulations to ensure they are compatible and enforceable with technological advances in equipment and training that have occurred since the regulations were last amended. The Department will also review the provisions of Part VI (Approval of Polygraphy Schools), specifically to consider adding provisions relating to continued course approval and withdrawal of approval from a school. In addition, all regulations will be reviewed for clarity.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

While the primary authority for regulating polygraph examiners is based on provisions in the Code of Virginia, there are strict federal guidelines that must be followed in all states. The Department will review these sections of the United States Code and the Code of Federal Regulations to determine if there are viable alternatives.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

These regulatory amendments are not anticipated to have any significant impact on Virginia families.